

Part 2

Membership Eligibility

49-23-201 System membership -- Eligibility.

- (1) Beginning July 1, 2011, a participating employer that employs public safety service employees or firefighter service employees shall participate in this system.
- (2)
 - (a) A public safety service employee or a firefighter service employee initially entering employment with a participating employer on or after July 1, 2011, who does not have service credit accrued before July 1, 2011, in a Tier I system or plan administered by the board, is eligible:
 - (i) as a member for service credit and defined contributions under the Tier II hybrid retirement system established by Part 3, Tier II Hybrid Retirement System; or
 - (ii) as a participant for defined contributions under the Tier II defined contributions plan established by Part 4, Tier II Defined Contribution Plan.
 - (b) A public safety service employee or a firefighter service employee initially entering employment with a participating employer on or after July 1, 2011, shall:
 - (i) make an election to participate in the system created under this chapter:
 - (A) as a member for service credit and defined contributions under the Tier II hybrid retirement system established by Part 3, Tier II Hybrid Retirement System; or
 - (B) as a participant for defined contributions under the Tier II defined contribution plan established by Part 4, Tier II Defined Contribution Plan; and
 - (ii) electronically submit to the office notification of the member's election under Subsection (2)(b)(i) in a manner approved by the office.
 - (c) An election made by a public safety service employee or firefighter service employee initially entering employment with a participating employer under this Subsection (2) is irrevocable beginning one year from the date of eligibility for accrual of benefits.
 - (d) If no election is made under Subsection (2)(b)(i), the public safety service employee or firefighter service employee shall become a member eligible for service credit and defined contributions under the Tier II hybrid retirement system established by Part 3, Tier II Hybrid Retirement System.
- (3)
 - (a) Beginning July 1, 2015, a public safety service employee who is a dispatcher employed by:
 - (i) the state shall be eligible for service credit in this system; and
 - (ii) a participating employer other than the state shall be eligible for service credit in this system if the dispatcher's participating employer elects to cover its dispatchers under this system.
 - (b) A participating employer's election to cover its dispatchers under this system under Subsection (3)(a)(ii) is irrevocable and shall be documented by a resolution adopted by the governing body of the participating employer in accordance with rules made by the office.
 - (c) A dispatcher's service before July 1, 2015, or before a date specified by resolution of a participating employer under Subsection (3)(b), is not eligible for service credit in this system.

Amended by Chapter 315, 2015 General Session

Amended by Chapter 463, 2015 General Session

49-23-202 Participation of employers -- Admission requirements.

- (1)

- (a) An employer is a participating employer and may not withdraw from participation in this system.
- (b) A participating employer shall cover its:
 - (i) public safety service employees in accordance with Section 49-15-202; and
 - (ii) firefighter service employees in accordance with Section 49-16-202.
- (2)
 - (a) An employer may, by resolution of its governing body, apply for admission to this system.
 - (b) Upon approval of the resolution by the board, the employer is a participating employer in this system and is subject to this title.
- (3) If a participating employer purchases service credit on behalf of public safety service employees or firefighter service employees for service rendered prior to the participating employer's admission to this system, the service credit shall be purchased in a nondiscriminatory manner on behalf of all current and former public safety service employees or firefighter service employees who were eligible for service credit at the time service was rendered.

Amended by Chapter 298, 2012 General Session

49-23-203 Exemptions from participation in system.

- (1) Upon filing a written request for exemption with the office, the following employees are exempt from participation in the system as provided in this section if the employee is a public safety service employee and is:
 - (a) an executive department head of the state;
 - (b) an elected or appointed sheriff of a county; or
 - (c) an elected or appointed chief of police of a municipality.
- (2)
 - (a) A participating employer shall prepare a list designating those positions eligible for exemption under Subsection (1).
 - (b) An employee may not be exempted unless the employee is employed in a position designated by the participating employer under Subsection (1).
- (3) Each participating employer shall:
 - (a) file each employee exemption annually with the office; and
 - (b) update an employee exemption in the event of any change.
- (4) Beginning on the effective date of the exemption for an employee who elects to be exempt in accordance with Subsection (1):
 - (a) for a member of the Tier II defined contribution plan:
 - (i) the participating employer shall contribute the nonelective contribution and the amortization rate described in Section 49-23-401, except that the contribution is exempt from the vesting requirements of Subsection 49-23-401(3)(a); and
 - (ii) the member may make voluntary deferrals as provided in Section 49-23-401; and
 - (b) for a member of the Tier II hybrid retirement system:
 - (i) the participating employer shall contribute the nonelective contribution and the amortization rate described in Section 49-23-401, except that the contribution is exempt from the vesting requirements of Subsection 49-23-401(3)(a);
 - (ii) the member may make voluntary deferrals as provided in Section 49-23-401; and
 - (iii) the member is not eligible for additional service credit in the system.
- (5) If an employee who is a member of the Tier II hybrid retirement system subsequently revokes the election of exemption made under Subsection (1), the provisions described in Subsection

(4)(b) shall no longer be applicable and the coverage for the employee shall be effective prospectively as provided in Part 3, Tier II Hybrid Retirement System.

- (6)
- (a) All employer contributions made on behalf of an employee shall be invested in accordance with Subsection 49-23-302(3)(a) or 49-23-401(4)(a) until the one-year election period under Subsection 49-23-201(2)(c) is expired if the employee:
 - (i) elects to be exempt in accordance with Subsection (1); and
 - (ii) continues employment with the participating employer through the one-year election period under Subsection 49-23-201(2)(c).
 - (b) An employee is entitled to receive a distribution of the employer contributions made on behalf of the employee and all associated investment gains and losses if the employee:
 - (i) elects to be exempt in accordance with Subsection (1); and
 - (ii) terminates employment prior to the one-year election period under Subsection 49-23-201(2)(c).
- (7)
- (a) The office shall make rules to implement this section.
 - (b) The rules made under this Subsection (7) shall include provisions to allow the exemption provided under Subsection (1) to apply to all contributions made beginning on or after July 1, 2011, on behalf of an exempted employee who began the employment before May 8, 2012.

Enacted by Chapter 315, 2015 General Session